

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**EBONY FLEMING,**

**Plaintiff,**

**V.**

**BROADPATH, LLC, d/b/a BROADPATH  
HEALTHCARE SOLUTIONS,**

**Defendant.**

**CIVIL ACTION FILE NO.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

COMES NOW Plaintiff, Ebony Fleming, by and through undersigned counsel, The Kirby G. Smith Law Firm, LLC, and hereby files this Complaint, stating as follows:

**I. JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 over Count I of this Complaint, which arises out of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. (“Title VII”).
2. This Court has personal jurisdiction over the parties because a substantial portion of the employment practices described herein were committed within Durham County, North Carolina.
3. Plaintiff exhausted all administrative remedies in this matter.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

**II. PARTIES**

5. Plaintiff is a citizen of the United States and a resident of Durham County, North Carolina.

6. Defendant is a corporation registered to conduct business in North Carolina.
7. This Court has jurisdiction over the parties because a substantial portion of the employment practices described herein were committed within Durham County, North Carolina.
8. Defendant may be served by delivering a copy of the Complaint and Summons to its registered agent, Corporation Service Company, located at 2626 Glenwood Ave, Ste 550, Raleigh, NC 27608.
9. Defendant employed fifteen (15) employees or more at all times relevant to this lawsuit.
10. Defendant is subject to the requirements of Title VII.

### **III. FACTUAL ALLEGATIONS**

11. Plaintiff was employed by Defendant from 2016 to September 13, 2019.
12. During the events in question, Plaintiff was employed by Defendant as a Claims Associate.
13. Plaintiff was supervised by Sherry Johnson from the start of Plaintiff's employment through September 9, 2019.
14. On or about September 9, 2019, Ms. Johnson was terminated.
15. On or about September 10, 2019, Plaintiff sent an email to Ms. Johnson in which Plaintiff agreed to be a witness in Ms. Johnson's EEOC claim against Defendant.
16. Plaintiff's email contained no attachments.
17. Upon information and belief, Ms. Johnson sent Plaintiff's email to Defendant's Human Resources department.
18. On or about September 13, 2019, Plaintiff was terminated.
19. Upon information and belief, the individuals who made the decision to terminate Plaintiff

were aware of her email to Ms. Johnson.

#### **IV. CLAIMS FOR RELIEF**

##### **COUNT I: TITLE VII RETALIATION**

20. Plaintiff incorporates by reference paragraphs 1-19 of his Complaint as if fully set forth herein.
21. Plaintiff engaged in a protected activity under Title VII.
22. Defendant had knowledge of Plaintiff's protected activity.
23. Plaintiff was subjected to the adverse action of termination.
24. The temporal proximity between Plaintiff's protected activity and the adverse action is circumstantial evidence of causation.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. Full back pay plus interest, front pay, compensatory damages, punitive damages, reasonable attorney fees, and costs in accordance with Title VII; and
- d. Any other relief this Court deems proper and just.

Respectfully submitted this 8th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly

Alexander C. Kelly

North Carolina Bar No. 49308

*Attorney for Plaintiff*

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**JURY DEMAND**

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 8th day of June, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly

Alexander C. Kelly

North Carolina Bar No. 49308

*Attorney for Plaintiff*

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